

## Remarks

The Office Action dated July 26, 2004 has been carefully considered. Claims 1, 3, 4, 6-11, 13-15 and 17-19 have been amended. Claims 1-21 remain pending.

Please note that a Notice of Draftsperson's Patent Drawing Review (PTO-892) was not included with the Office Action.

Claim 13 was rejected under 35 U.S.C. § 102(b), as being anticipated by Shoptaugh (U.S. Pat. No. 3,695,615), and claim 1 was rejected under 35 U.S.C. § 103(a), as being obvious over Shoptaugh. Claims 5, 11 and 12 were rejected under 35 U.S.C. § 103(a), as being obvious over Shoptaugh in view of McNamara (U.S. Pat. No. 5,269,531).

Claims 1-4, 6-10, 14, 16-18, 20 and 21 were rejected under 35 U.S.C. § 103(a), as being obvious over Ryan (U.S. Pat. No. 3,804,415). Claim 15 was rejected under 35 U.S.C. § 103(a), as being obvious over Ryan in view of *Ex Parte Breslow*, 192 USPQ 431. Claim 19 was rejected under 35 U.S.C. § 103(a), as being obvious over Ryan in view of Erlich (U.S. Pat. No. 4,326,720).

Applicant respectfully traverses these rejections and requests reconsideration of the amended claims.

Applicant's invention achieves a desired outcome of traversing a game piece from a starting position on one side of the challenge card, to a finishing position on another side of the challenge card. This is accomplished by the combination of a separate challenge card placed on a game board, with the challenge card having a pre-designated pattern thereon, and a pre-determined number of posts and a pre-determined number planks corresponding to the pre-designated pattern on the challenge card. Applicant's

invention is designed for single person play (although it can be used in alternating player formats who are working together) with a single objective to traverse from one side of the challenge card to another using only the posts and planks that were initially placed on the challenge card at the start of the game. The combination of the challenge card pattern and the pre-determined number of posts and planks at the start of the game satisfies the mind-challenging and enjoyment objectives of the game. In other words, in applicant's invention, the "player" competes against the challenge inherent in the "game" as initially set-up, as opposed to competing against another person and adding additional pieces.

The principal references, Shoptaugh and Ryan, are directed to entirely different games and methods of playing thereof. Each reference is directed to a two-person game pitting the players against each other, which provides a completely different game structure, game experience, and method of play.

First, neither reference discloses a "challenge card" separate from the actual game board as set forth in independent claims 1, 11, 13 and 14. In Shoptaugh, the "challenge card (6)" identified by the Examiner at pages 2 and 5 of the Office Action, is actually the "game board 6" itself (*see* Shoptaugh at 2:18-20). In Ryan, the "challenge card (16)" identified by the Examiner at pages 3-4 of the Office Action, is actually the "game pieces 16" (*see* Ryan at 2:35-36 and Fig. 4). Applicant therefore respectfully disagrees with the Examiner's characterization that the cited references depict a "challenge card."

By contrast, applicant's invention requires a separate "challenge card" that is either placed on, or depicted on the game board to provide different challenges for different games.

Moreover, Shoptaugh and Ryan both require that **additional** game pieces be added to the board during play in order to achieve the objects of the respective inventions, namely, to form a path from one side to another. *See* Shoptaugh at 3:61 to 4:11 and Ryan at 4:42-63. If Shoptaugh and Ryan were limited to just the game pieces positioned during the initial set-up of the game, the objects of those games would never be achieved.

By contrast, as more clearly set forth in the amended claims, applicant's invention prohibits additional game pieces from being added to the game board during the game. The game begins with a "pre-determined" plurality of posts positioned on the game board according to the challenge card, and a "pre-determined" plurality of planks positioned on the game board according to the challenge card. The object of applicant's invention is achieved by sequentially lifting and repositioning one of the existing pre-determined plurality of planks that were initially set-up on the game board. No new posts or planks are added during game play.

Note also that in applicant's game, because the existing planks are lifted and repositioned, there is no "continuous path" from one side to the other at any time during the game, which is clearly the objective described in Shoptaugh and Ryan.

Again, it is the interplay of the separate challenge card and the finite number of posts and planks that achieves the object of applicant's claimed invention, neither feature of which is disclosed in the Shoptaugh and Ryan references.

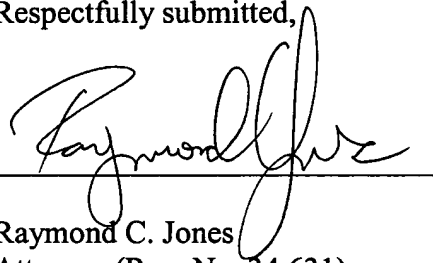
It is respectfully submitted that claims 1-21 patentably distinguish over the prior art, since it is believed that the construction defined in these claims differs essentially and in an unobvious, advantageous manner from that disclosed in the references. Applicant

believes that even combining the references discussed above would not lead to the claimed invention, in that the present invention employs a new, non-obvious combination to accomplish the objectives set out in the present application. Therefore it is respectfully requested that the anticipation and obviousness rejections of claims 1-21 be withdrawn.

Should the Examiner consider necessary or desirable any formal changes anywhere in the specification, claims and/or drawings, then it is respectfully requested that such changes be made by Examiner's Amendment, if the Examiner feels this would facilitate passage of the case to issuance.

Alternatively should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Raymond Jones", is written over a horizontal line.

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